

Message Text

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PAGE 01 MEXICO 10090 070217Z

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ACTION SCSE-00

INFO OCT-01 ARA-10 ISO-00 L-03 EB-07 FAA-00 DOTE-00 SCA-01

/022 W

----- 041233

R 061940Z AUG 76

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 6627

UNCLAS MEXICO 10090

E.O. 11652: N/A

TAGS: CASC, MX

SUBJ: US-MEXICO CONVENTION FOR RETURN AND RECOVERY OF STOLEN
AUTOMOBILES AND AIRCRAFT

1. CCS CHIEF DANIELS AND PROPERTY CLAIMS OFFICER HUDSON CALLED ON AMBASSADOR ALFONSO ROSENZWEIG-DIAZ, JURIDICAL CONSULTANT TO SECRETARIAT OF FOREIGN RELATIONS, ON AUGUST 4 TO DISCUSS CONVENTION AND WAYS OF MAKING IT OPERATE MORE EFFECTIVELY. AS EXAMPLES OF PROBLEMS INVOLVED, THEY CITED FACTS THAT SOME OF 19 CURRENTLY PENDING AIRCRAFT CASES DATED FROM 1974 AND OF 40 AUTOMOBILE CASES, SOME DATED FROM 1973, AND THAT EMBASSY REQUESTS FOR STATUS REPORTS IN MOST CASES PRODUCED ONLY THE INFORMATION THAT THE SECRETARIAT HAD FORWARDED THE DOCUMENTS TO THE ATTORNEY GENERAL. THEY ALSO MENTIONED RECENT CASE WHERE EMBASSY'S DIPLOMATIC NOTE TRANSMITTING CONVENTION CLAIM IN MID-MARCH WAS NOT ACTED UPON BY SECRETARIAT UNTIL AUGUST 1, AND THEN ONLY AFTER FOUR WEEKS OF ALMOST DAILY TELEPHONE CALLS AND A VISIT BY THE OWNER INVOLVED, ACCOMPANIED BY CONSUL HUDSON, TO THE SECRETARIAT.

2. AFTER SOME DISCUSSION, ROSENZWEIG ASKED FOR AND WAS GIVEN A LIST OF PENDING CASES, AND AGREED TO LOOK INTO MATTER. DURING THE CONVERSATION, HE REITERATED THE FAMILIAR REFRAIN THAT THE CONVENTION WAS OUT OF DATE AND STATED THAT GOM CONSIDERED THAT A NEW CONVENTION WAS REQUIRED TO MEET CHANGED CIRCUMSTANCES, THAT IS, THE
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PAGE 02 MEXICO 10090 070217Z

LAST INCREASE IN THE USE OF AIRPLANES ESPECIALLY FOR

SMUGGLING AND NARCOTICS TRAFFICKING, AND THE FAILURE OF THE EXISTING CONVENTION TO REQUIRE PROOF OF NON-INVOLVEMENT OF THE CLAIMANT OWNERS. HE SAID THAT HE HIMSELF HAD JUST BEGUN TO STUDY MATTER AND THAT IT WAS STILL IN PLANNING STAGE. BECAUSE OF THE NUMBER OF DIFFERENT MEXICAN GOVERNMENT AGENCIES INTERESTED, AND THEIR VARYING VIEWPOINTS, MEXICO WOULD PROBABLY NOT MAKE ANY CONCRETE PROPOSALS FOR A NEW CONVENTION THIS YEAR. CONOFFS TWICE REQUESTED AND RECEIVED ASSURANCES DURING THE COURSE OF THE CONVERSATION THAT THERE WOULD BE NO LET-UP IN ACTIVITY UNDER THE PRESENT CONVENTION UNTIL SUCH TIME AS THE GOM DECIDED TO MAKE ITS PROPOSALS.

3. DURING SUBSEQUENT DISCUSSION OF A NON-CONVENTION CASE, ROSENZWEIGH MENTIONED THAT IF PROPERTY STOLEN IN THE UNITED STATES AND TRANSPORTED TO MEXICO WERE SUBSEQUENTLY PURCHASED IN GOOD FAITH BY A MEXICAN CITIZEN, THE PROPERTY WOULD PROBABLY NOT BE RETURNABLE UNDER THE CONVENTION OR OTHERWISE BECAUSE THE PURCHASER COULD OBTAIN AN AMPARO FROM A COURT PROHIBITING THE GOVERNMENT FROM TAKING THE PROPERTY FROM HIM, IN ACCORDANCE WITH THE MEXICAN CONSTITUTION (PRESUMABLY ARTICLE XIV, WHICH PROVIDES, INTER ALIA, THAT NO ONE MAY BE DEPRIVED OF HIS PROPERTY WITHOUT, IN EFFECT, DUE PROCESS OF LAW). WHEN IT WAS POINTED OUT TO HIM THAT CONVENTION ITSELF WAS LAW, HE SAID THAT SUCH AN INTERPRETATION OF THE CONVENTION WOULD VIOLATE THE CONSTITUTION. HE WENT ON TO SAY THAT THE SPANISH LANGUAGE VERSION OF THE TITLE OF THE CONVENTION ITSELF WAS DEFECTIVE IN THAT IT SPOKE OF "CUALQUIER DELITO CONTRA LA PROPIEDAD" WHEN IN FACT NO SUCH CRIME EXISTED IN MEXICAN LAW, ONLY "DELITOS CONTRA EL PATRIMONIO PERSONAL".

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PROPERTY PROTECTION, AGREEMENTS, THEFTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MEXICO10090
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760304-1100
From: MEXICO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760877/aaaacpfj.tel
Line Count: 94
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SCSE
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 25 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <25 MAR 2004 by ReddocGW>; APPROVED <18 JAN 2005 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-MEXICO CONVENTION FOR RETURN AND RECOVERY OF STOLEN AUTOMOBILES AND AIRCRAFT
TAGS: CASC, CPRS, MX
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006